

REMARKS

In the Decision on Appeal mailed October 14, 2009, the Board of Appeals reversed the Examiner's decision as to claims 12-14 and 25-27 and entered a new ground of rejection of claims 12-14 and 25-27 under 35 USC 112, second paragraph.

In the amendment presented herein, Applicant has addressed the issue of indefiniteness raised in the new ground of rejection. More particularly, the claims 12 and 25 have been amended to recite "a stacker machine having a moveable stacker head with two fingers and a flexible support structure, said two fingers applying opposed clamping forces to grip a given group of elongate bags, and said flexible support structure extending downward from above the given group of elongate bags and having a portion that is sandwiched between adjacent bags disposed side-by-side in said cross-stacked configuration such that a friction fit between the flexible support member portion and the adjacent bags prevents such bags from sliding past one another during lifting and transport of the given group of bags." This amendment removes the indefinite language identified by the board (the support structure "not providing resistance to the opposed clamping forces"), and thus addresses the issue of indefiniteness raised in the new ground of rejection. Moreover, the structural features of the stacker head of the claims are not taught or suggested by the cited prior art. For these reasons, the amended claims are clearly patentable over the cited prior art.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

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